

# **/COMMISSION OF THE EUROPEAN COMMUNITIES**

COM(81) 486 final

Brussels, 17 August 1981

Proposal for a

## **COUNCIL REGULATION (EEC)**

imposing a definitive anti-dumping duty on imports of certain textured polyester fabrics originating in the United States of America

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(submitted to the Council by the Commission)

COM(81) 486 final

## EXPLANATORY MEMORANDUM

In May 1981 the Commission imposed a 38% provisional anti-dumping duty on imports of certain textured polyester fabrics originating in the United States of America<sup>1</sup>. However, the duty was limited to 30.8% in the case of one exporter and to 3.9% for four others, while imports of products manufactured and exported by a sixth company were wholly exempt from the duty.

Since imposing the provisional duty, the Commission has received information from certain exporters which have led it to reconsider the conclusions concerning dumping by those companies set out in Regulation (EEC) No 1337/81. Moreover, another exporter made himself known and the data concerning its exports indicate that the average dumping margin is 3.9%.

The injury being caused to the Community industry consists inter alia of an increase in the market share of US manufacturers at the expense of Community producers and a downward pressure on prices.

It is therefore proposed to impose a definitive anti-dumping duty of 38% on imports of certain textured polyester fabrics originating in the United States of America. It is further proposed to exempt from this duty the exports of one company which were exempted when the provisional duty was imposed, and those of two other companies and to limit the duty at the rate of 30.8% on exports of a fourth company and 3.9% on the exports of three other exporters. It is also proposed that the amounts secured by way of provisional duty be now collected, albeit at a rate which does not exceed that of the definitive duty.

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<sup>1</sup> Regulation (EEC) No 1337/81, OJ No L 133, 20.5.1981, p. 17

PROPOSAL FOR COUNCIL REGULATION (EEC)

imposing a definitive anti-dumping duty on imports of certain textured polyester fabrics originating in the United States of America

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THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3017/79 of 20 December 1979 on protection against dumped or subsidized imports from countries not members of the European Economic Community<sup>1</sup>, and in particular Article 12 thereof,

Having regard to the proposal submitted by the Commission after consultation within the Advisory Committee set up under Article 6 of Regulation (EEC) No 3017/79,

Whereas Commission Regulation (EEC) No 1337/81<sup>2</sup> imposed a provisional anti-dumping duty of 38% on imports of certain textured polyester fabrics originating in the United States of America; whereas the duty was, however, limited to 30.8% on imports of products manufactured and exported by Frank Ix and Sons, New York, and to 3.9% on those manufactured and exported by Texfi Industries, Inc., Greensboro, North Carolina, Burlington Industries Inc., Greensboro, North Carolina, Bloomsburg Mills, Inc., New York, which also markets under the name of Penn Weaving, and Milliken and Co., Spartanburg, South Carolina; whereas the duty does not apply to imports of like products manufactured and exported by Greenwood Mills, Inc., Greenwood, South Carolina;

Whereas, after the Commission had imposed the provisional anti-dumping duty, a number of exporters, i.e. Milliken and Co., J P Stevens and Co., Inc., Texfi Industries, Inc. and Burlington Industries Inc., were, at their request, informed orally or in writing of the principal facts and considerations on the basis of which it was intended to recommend a definitive decision; whereas certain exporters, i.e. Texfi Industries, Inc., Burlington Industries, Inc. and Bloomsburg Mills, Inc. - Penn Weaving, made their views known;

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<sup>1</sup> OJ No L 339, 31.12.1979, p. 1

<sup>2</sup> OJ No L 133, 20.05.1981, p. 17

Whereas the particulars supplied to the Commission, with the exception of those provided by Burlington Industries, Inc. and Texfi Industries, Inc., are nevertheless not such as to justify alterations of the average weighted dumping margins established in the course of the preliminary investigation; whereas such margins, with the exception of those relating to Burlington Industries, Inc. and Texfi Industries, Inc., are therefore to be regarded as definitive;

Whereas, however, the information supplied by Burlington Industries, Inc. indicates that, owing to the incorrect assessment of certain transport costs and general overheads borne by Burlington (Ireland) Ltd, the weighted average dumping margin established for that company when the provisional duty was determined should be reduced and that the margin to be regarded as definitive is 0.64%; whereas, however, fresh particulars supplied by Texfi Industries, Inc. indicate that the normal value of that company's exports was overestimated and that accordingly the dumping margin to be regarded as definitive is 0.61%;

Whereas a further exporter, <sup>known</sup> How Industries Ltd, Aberdeen, North Carolina, which had not made itself / before the provisional anti-dumping duty was imposed, has asked the Commission to be exempted from the duty on the grounds that its exports to the Community had not been dumped;

Whereas in order to establish whether that company had practised dumping, the Commission received from it all <sup>the</sup> necessary information; whereas the investigation showed that the average prices for textured polyester fabrics sold by the manufacturer in question on the domestic market had been less, over the period covered by the investigation, <sup>i.e.</sup> the 1980 calendar year, than the fixed and variable costs <sup>ordinarily</sup> / incurred in the course of their production; whereas the normal value was therefore constructed by adjusting the prices below cost of production, in order to eliminate losses and provide for a reasonable profit; whereas the Commission considered that the figure of 5% chosen in the course of the preliminary investigation could be regarded as a reasonable profit;

Whereas the Commission compared the normal value as established above to the prices actually paid for the like products sold for export to the Community over the same reference period; whereas these comparisons were carried out at the ex-factory level; whereas these export prices were adjusted where necessary, to take account of the different physical characteristics of the product such as yarn and finish, and conditions and terms of sale;

Whereas the investigation concerning How Industries Ltd reveal that the company's prices for exports to the Community were lower than the normal value and that the average dumping margin is 3.9%; whereas this exporter was informed of the principal facts and considerations on the basis of which it was intended to recommend a definitive decision;

Whereas, since it adopted Regulation (EEC) No 1337/81, the Commission has not received any information concerning injury to Community producers which could lead it to revise its conclusions on that subject as set out in that Regulation; whereas the Commission therefore concludes definitively that the dumped imports have caused material injury to the Community industry concerned;

Whereas in these circumstances the protection of the Community's interests requires that a definitive anti-dumping duty be imposed on imports of certain textured polyester fabrics originating in the United States of America; whereas in view of the material injury caused, the rate of duty should correspond to the dumping margins established; whereas, however, as the dumping margins on exports manufactured and exported by Greenwood Mills, Inc., Texfi Industries, Inc. and Burlington Industries, Inc., are de minimis, imports of certain polyester fabrics manufactured and exported by these undertakings should be exempt from the definitive duty;

Whereas for the same reasons as outlined in the preceding paragraph the amounts secured by way of provisional duty should be definitively collected, with the exception of those relating to imports from Texfi Industries, Inc. and Burlington Industries, Inc. which should be released; whereas in respect of goods manufactured and exported by How Industries Ltd the amount collected should not exceed that corresponding to the definitive duty, that is, 10.2% of the amount secured by way of provisional duty;

HAS ADOPTED THIS REGULATION:

*Article 1*

1. A definitive anti-dumping duty is hereby imposed on imports of woven fabrics consisting wholly of yarn of textile fibres of textured polyester weighing not less than 175 g/m<sup>2</sup> and not more than 200 g/m<sup>2</sup> for unbleached fabrics and not less than 200 g/m<sup>2</sup> and not more than 225 g/m<sup>2</sup> for dyed fabrics falling within Common Customs Tariff subheading ex 51.04 A IV and corresponding to NIMEXE codes ex 51.04.21 and 25, originating in the United States of America. This duty shall not apply to imports of products described above manufactured and exported by Greenwood Mills, Inc., Greenwood, South Carolina,

Texfi Industries, Inc., Greensboro, North Carolina and Burlington Industries Inc., Greensboro, North Carolina.

2. Subject to the provisions of paragraph 3, the rate of the definitive anti-dumping duty shall be 38 %.

3. The rate of the definitive anti-dumping duty applicable to imports of products described in paragraph 1 manufactured and exported by Frank Ix and Sons, New York, shall be 30.8 %; the rate for imports of like products manufactured and exported by Bloomsburg Mills Inc. - Penn Weaving, New York; Milliken and Co, Spartanburg, South Carolina and How Industries Ltd, Aberdeen, North Carolina shall be 3.9%.

4. The duty referred to in paragraphs 2 and 3 shall be calculated on the basis of value for customs purposes determined in accordance with Council Regulation (EEC) No 1224/80 of 28 May 1980 on the valuation of goods for customs purposes<sup>(1)</sup>.

5. The provisions in force concerning customs duties shall apply for the application of the duty referred to in paragraphs 2 and 3.

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<sup>1</sup> OJ No L 134, 31.05.1980, p. 1

Article 2

1. Subject to paragraph 2, the amounts secured by way of provisional duty <sup>definitively</sup> under Regulation (EEC) No 1337/81 shall be/collected, with the exception of those relating to imports of products manufactured and exported by Texfi Industries, Inc. and Burlington Industries Inc., which shall be released in full.

2. A sum of 10.2% of the amount secured by way of provisional duty on imports of products manufactured and exported by How Industries Ltd <sup>definitively</sup> shall be/collected and the balance released.

Article 3

This Regulation shall enter into force on the day of its publication in the Official Journal of the European Communities.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council

The President